



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,971	02/15/2002	Hamid Hojaji	50699/7	1426

7590 01/13/2004

Charles R. Macedo, Esq.
Amster, Rothstein & Ebenstein
90 Park Avenue
New York, NY 10016

EXAMINER

CHAPMAN, JEANETTE E

ART UNIT	PAPER NUMBER
----------	--------------

3635

DATE MAILED: 01/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/076,971	Applicant(s) HOJAJI ET AL.	
	Examiner Chapman E Jeanette	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) 16-57 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Fukumoto et al (5069960) FU. FU discloses a foam glass tile with a closed outer pore skin and having a density in the range of 14.16 lb/cu ft- 92.6 lb/cu ft (.2-1.3 gm/cc) and having a weight in the range of 12.5 lb-187 lb (3-75mg). The latter values include the recited density between 30-100 lb/cu ft and the weight greater than 100 lbs. The tile further comprises an interior portion 10 and the tile outer skin comprises an additive 12 or a pigment to make its surface appear a different color than the interior portion of the tile. The tile may be used in a building or lightweight building façade (column 6, lines 1-12 and having the same recited values as the prior art the same is capable of withstanding earthquake damage.

Glass is known to be made with a textured or glazed surface for aesthetic appeal. One of ordinary skill in the art would have added these decorative effects for aesthetic appeal. The same has no bearing on the overall structure and function of the glass.

The tile's surface area and thickness being at least two inches has been considered a matter of choice and routine procedural design; one of ordinary skill in the

Art Unit: 3635

art would have appreciated the use and purpose of the tile and would have selected the above values to be commensurate with the intended use of the tile.

Response to Arguments

Applicant's arguments filed 10/29/03 have been fully considered but they are not persuasive. Applicant argues that his tile is a heavier tile thus a stronger tile able to withstand the shocks/energy from an explosion of an earthquake. Applicant has avoided the disclosure of how Fukumoto et al's tile is given strength by applying a strong glaze which is heavy comparatively; he discloses a different method. Further see column 1 lines 33 –67 which speaks of the tile's strength and thermal conductivity and weight.

Furthermore, the numerical values for the density and weight of Fukumoto is not far from those given by applicant and is therefore able to withstand the energy of explosion of shock of an earthquake as much as applicant's with approximately similar values for the density and weight of the tile. The range of the density of Fukumoto does not extend as high as applicant's but applicant argues his will function as intended with any one of the values listed in the range. Further applicant states that the ability of the Fukumoto tiles to withstand thermal shock and rapid changes in temperature..... does not speak of the ability of the tiles to resist or with stand a shock wave resulting from explosion; again, the examiner safely assumes that if applicant's tile includes the same values for the density and includes the same materials for construction Fukumoto's tile will operate approximately the same as applicant's; Further with the slight difference in the above values one can argue that the density values for applicant's foam tile is well within the scope of those disclosed in Fukumoto. Moreover, Fukumoto does not speak of the

inability of his tile to resist or withstand shock wave energy resulting from an explosion; applicant merely assumes that the tile of Fukumoto assumes this lack of ability.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E Jeanette whose telephone number is 703-308-1310. The examiner can normally be reached on Mon.-Fri, 8:30-6:00, every other fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 703-308-0839. The fax phone numbers for the organization where this application or proceeding is assigned are 305-7687 for regular communications and 305-3597 for After Final communications.

Art Unit: 3635

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

jec
January 12, 2004


Jeanette Chapman
Primary Examiner